

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Board of Trustees of the Plumbers, Pipefitters  
& Mechanical Equipment Services, Local  
Union No. 392 Pension Fund, et al.,

Plaintiff(s),

VS.

Kenneth R. Rogers Plumbing & Heating, Inc.,  
et al.,

Defendant(s).

Case Number: 1:10cv721

Chief Judge Susan J. Dlott

## ORDER

The Court has reviewed the Report and Recommendation of United States Magistrate Judge Stephanie K. Bowman filed on August 25, 2011 (Doc. 41), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired September 12, 2011, hereby ADOPTS said Report and Recommendation.

A copy of the Report and Recommendation that was sent to Defendant Rogers was Returned as Undeliverable September 14, 2011 (Doc. 42).

Accordingly, plaintiff's motion for judgment on the pleadings or in the alternative, for default judgment under Rule 37 (Doc. 33) is **DENIED**.

The Court will *sua-sponte* re-examine the proceedings in 1:09cv748 MRB to determine the propriety of jurisdiction and/or of consolidation of proceedings with this case.

Assuming the lack of any procedural or jurisdictional bar to ongoing proceedings in this case, the Court DIRECTS the Clerk of Court to enter a default against the two named corporate

defendants, pursuant to Rule 55(a), based upon their failure to secure new counsel.

Given the denial of judgment on the pleadings, the unusual procedural history, *pro se* Defendant Jason Rogers' request for mediation, and again assuming the lack of any procedural bar to continued proceedings, the Court will enter a scheduling order or resubmit the matter to the Magistrate Judge for further proceedings.

IT IS SO ORDERED.

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s/Susan J. Dlott  
Chief Judge Susan J. Dlott  
United States District Court